



**DEPARTMENT OF VETERANS AFFAIRS
BOARD OF CONTRACT APPEALS
WASHINGTON, D.C. 20420**

APPEAL OF)
)
DULLES NETWORKING)
ASSOCIATES, INC.,)
DEBTOR IN POSSESSION)
)
CONTRACT NO. V101(93)P-1586) **DOCKET NO. VABCA-6473-6477,**
CONTRACT NO. V693P-2004) **and 6479**
)
VA MEDICAL CENTER)
WILKES BARRE, PENNSYLVANIA)

APPEARANCES

Shelton H. Skolnick, Esq., Skolnick & Leishman, P.C., Landover, Maryland; and *Joseph G. Billings, Esq.*, Professional Corporation of Joseph G. Billings, Landover, Maryland, for the Appellant.

Cameron V. Gore, Esq., Trial Attorney; *Philip S. Kaufman, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

**OPINION BY ADMINISTRATIVE JUDGE KREMPASKY
ON
APPELLANT'S MOTION TO SUBSTITUTE**

On March 2, 2001, Appellant filed a MOTION TO SUBSTITUTE BRADFORD F. ENGLANDER, LIQUIDATING TRUSTEE UNDER LIQUIDATING TRUST FOR DULLES

NETWORKING ASSOCIATES INC. ("LIQUIDATING TRUSTEE") seeking the Board's substitution of the Liquidating Trustee as the named Appellant in these appeals. In support of its MOTION, Appellant has provided the JOINT PLAN OF REORGANIZATION (JOINT PLAN) filed in the United States Bankruptcy Court, Eastern District of Virginia in *Dulles Networking Associates, Inc.*, Case No. 99-10831-RM, Chapter 11, the Court's January 12, 2001 ORDER CONFIRMING JOINT PLAN OF REORGANIZATION, the Liquidating Trustee's NOTICE OF EFFECTIVE DATE of the JOINT PLAN OF REORGANIZATION and a February 9, 2001 letter from the Liquidating Trustee to the above named counsel for Appellant requesting that the counsel take the steps necessary to have the Liquidating Trustee substituted as the named appellant in these appeals. The Government has elected not to respond.

DISCUSSION

These appeals were docketed on November 2, 2000 with Dulles Networking Associates, Inc. (DNA) as the named Appellant. The Board subsequently revised its caption of the named Appellant, based on information provided by the parties, to reflect that the actual Appellant was Dulles Networking Associates, Inc., Debtor in Possession pursuant to a proceeding under Chapter 11 of the U. S. BANKRUPTCY CODE.

The JOINT PLAN, as confirmed by the Court, vests the claims underlying these appeals in the Liquidating Trust and it clearly empowers the Liquidating Trustee to prosecute these appeals on behalf of the Liquidating Trust.

The transfer of the claims underlying these appeals from DNA to the Liquidating Trust is akin to the situation involving a sale of assets recognized in a Liquidation Plan confirmed by the Bankruptcy Court with which the Armed

Services Board of Contract Appeals (ASBCA) dealt in *Certified Abatement Technologies*, ASBCA No. 39,852, 99-1 BCA ¶ 30,389. In *Certified*, Judge Lane's thorough and scholarly discussion leaves no doubt that a transfer or assignment of claim as part of a bankruptcy proceeding is not barred by the ASSIGNMENT OF CLAIMS ACT and that such assignment creates the requisite privity of contract for the assignee to prosecute an appeal under the CONTRACT DISPUTES ACT as the party appellant. Thus, in accordance with the JOINT PLAN here, the Liquidating Trust by the Liquidating Trustee is the proper party Appellant in these appeals.

DECISION

For the forgoing reasons, the MOTION TO SUBSTITUTE BRADFORD F. ENGLANDER, LIQUIDATING TRUSTEE UNDER LIQUIDATING TRUST FOR DULLES NETWORKING ASSOCIATES, INC. is **GRANTED**. Henceforth, the party Appellant in these appeals shall be Bradford F. Englander, Liquidating Trustee under Liquidating Trust for Dulles Networking Associates, Inc.

DATE: **March 28, 2001**

RICHARD W. KREMPASKY
Administrative Judge
Panel Chairman

We Concur:

MORRIS PULLARA, JR.
Administrative Judge

WILLIAM E. THOMAS, JR.
Administrative Judge